

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 13607, of McLean Gardens Limited Partnership, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing an accessory use and building on a lot other than the lot on which is located the principal use to which it is accessory (Sub-section 7601.1) to construct a swimming pool and bathhouse in an R-5-A District at the premises 3640 - 38th Street, N. W., (Square 1822, Lot 13).

HEARING DATE: November 18, 1982  
DECISION DATE: December 2, 1982

FINDINGS OF FACT:

1. The subject property is located at 3640 38th Street, approximately in the center of Lot 13, Square 1822. Square 1822 is bounded by Rodman Street on the north, 39th Street on the west, Porter Street on the south and 38th Street on the east. The property is located in the R-5-A zone district.
2. Square 1822 has an area of 198,209 square feet. It is currently improved with five, three and four story red brick apartment houses of Georgian-style design which are undergoing renovation. A one-story utility building and parking area also occupy the interior of the subject site.
3. The subject property is one of twelve lots in four squares with thirty-one buildings which are being renovated for 720 condominium units at McLean Gardens. Square 1822 is surrounded by other squares which are all part of the McLean Gardens development.
4. The twelve lots and four squares are separated by public streets, alleys and Glover-Archbold Park. The District of Columbia Surveyor will not record a single lot of record which crosses over a public street, alley, or other public property. Even closing the public street would not create one lot of record because of the intervening Park.
5. The applicant proposes to construct a swimming pool and bathhouse for the use of all McLean Gardens condominium unit owners who live or will live in the thirty-one buildings being renovated.

6. The pool and bathhouse would be owned and managed by the unit owners association of the McLean Gardens condominium. The pool and bathhouse will be a common element of the condominium in which each owner owns an undivided interest.

7. The applicant requests a variance from Sub-section 7601.1 of the Zoning Regulations which requires that an accessory building or use be located on the same lot as the principal use or building to which it is accessory.

8. The site area selected for the proposed swimming pool and bathhouse is of adequate size for the proposed facility. The area, in the rear yards of the five buildings in Square 1822, is relatively flat and bounded on the west by a dense grove of trees and a steeply sloping grass hill. An "L" shaped parking lot at 38th Street will form the eastern boundary. A brick-faced one story utility building and cooling tower currently occupy the northern part of the proposed site.

9. The bathhouse and pool have been designed to minimize any adverse noise and visual conditions. The new bathhouse will be attached to the south and west facades of the existing utility building and cooling tower.

10. The 2,700 square foot swimming pool will be placed directly south of the bathhouse. The pool has been designed to provide lanes for lap swimming and shallower areas for other water activities.

11. The architectural character of the bathhouse will blend with the Georgian style of the surrounding residential buildings. It will be small scale, under fifteen feet in height, and include men's and women's lockers, a storage area and office for the pool manager.

12. The pool terrace and bathhouse area will be surrounded by a continuous six foot high wooden fence. The terrace area surrounding the pool will be landscaped. At the request of McLean Gardens residents, a bicycle rack will be placed at the pool entrance. Handicapped and emergency access points to the pool and terrace area have been incorporated into the design.

13. The proposed pool and bathhouse would both enhance the public welfare and be compatible with the R-5-A plan. The design of the facilities and the landscaping enhance the attractiveness of the condominium development and thus the value and stability of the surrounding neighborhood.

14. The project will have no adverse affect on the surrounding neighborhood. The project would further several important policies of the District of Columbia relating to

neighborhood identity, distribution of recreational facilities, creation of healthy environmental conditions and sensitive land use.

15. An exceptional condition of the property is created by the existence of public streets, alleys and Glover-Archbold Park which separate the lots and squares of the condominium, and can never be closed to make a single lot of record.

16. The strict application of the Zoning Regulations would result in either construction of twelve small swimming pools, one on each lot, for which there is neither space, the demand nor the economic justification, restriction of the use of the proposed facility to only unit owners living on Lot 13 which undermines the concept of the condominium and can not be economically justified or a decision not to build a pool, which would further overcrowd existing public facilities. All three alternatives are undesirable and unrealistic.

17. The two public pools in Ward 3 are severely overcrowded as set forth in the District of Columbia's Department of Recreation "Comprehensive Recreation Plan for the District of Columbia," March 1981. Addition of McLean Gardens residents would further overcrowd these facilities. The Department has a policy of encouraging non-public recreation programs and facilities in the city.

18. Advisory Neighborhood Commission 3C, by letter of November 9, 1981, reported that it passed a resolution of support at its monthly meeting on October 26, 1981.

19. The McLean Gardens Residents Association, by letter of November 9, 1981, reported that it passed a resolution in support of the project at its October 29, 1981 meeting. The Association urged that the design of the bathhouse be in keeping with Georgian style features of the existing condominium buildings and that the patio area include a lawn terrace design.

20. The Unit Owner's Association of McLean Gardens I, A Condominium, by letter dated November 9, 1981, urged the Board to approve the application as the Association had voted overwhelmingly to support the application at a special meeting held October 22, 1981.

21. The Board also received a letter of support for the application from an individual unit owner in the condominium.

22. There was no opposition to the application at the public hearing or in the record.

CONCLUSIONS OF LAW AND OPINION:


The Board concludes that the variance requested herein is an area variance. A swimming pool is a permitted accessory structure in the R-5-A District provided it is located on the same lot as the principle structure. In this case, the accessory structure will be accessory to structures located on the same lot as well as other lots. The Board concludes that the existence of intervening public streets, alleys and Glover-Archbold Park, which assure that the condominium can never be on one lot of record, creates an exceptional situation arising out of the property. The Board concludes that the alternatives of building twelve small pools on the twelve individual lots of the McLean Gardens condominium or restricting use of the pool to owners of Lot 13 is neither practical nor economical. The Board concludes that not building the pool is undersirable as that will result in further overcrowding existing facilities in Ward 3.

The Board concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map. Accordingly it is therefore hereby ordered that the application is GRANTED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh,  
Connie Fortune and Walter B. Lewis to GRANT,  
Douglas J. Patton to grant by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: MAR - 1 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.